

that we have listened to the American people. Last night, Republicans expressed the need to cut spending, reduce the debt, shrink the size and scope of the Federal Government, and help spur private sector employment—in short, change the way Washington is doing business to get our economy going again.

There is no question that is a sentiment shared by the American people. I would be remiss if I did not also express some dismay with the priorities that are being put forward on the other side of the aisle.

This is a lameduck session, and they have an opportunity to respond to the American people before we convene for the 112th Congress, but there is no reason why we cannot get to work on their behalf beginning today.

Let me share with you what I believe our priorities need to be during the lameduck session: first and foremost, preventing massive tax increases on families and small businesses and stopping the Washington spending spree. It is critical we send a message to job creators that Congress will not raise taxes on January 1.

In September, I offered a bill that would make the current tax rates permanent. In other words, nobody—nobody—in America would get a tax hike at the end of the year. The White House did not like that idea. Their preference was to raise taxes on small businesses. I think it is safe to say the American people clearly preferred our proposal: no tax hikes on anybody, especially in the middle of a recession. We should be creating jobs, not killing them.

It is my hope that starting today Democrats will turn to the priorities that reflect the wishes of the American people. If they choose that route, I know Republicans will be happy to work with them to get those things accomplished. If not, I am confident Republicans will be eager to chart a different course on behalf of the American people.

When we return from the Thanksgiving break, Republican and Democratic leaders will have an opportunity to discuss these priorities with the President in a meeting at the White House. I am looking forward to the meeting and to the opportunity to share with the President again the areas where we agree. I believe we can work together to increase opportunities for job growth here at home through increased trade opportunities abroad. I agree with the President that we should increase our exploration for clean coal technology and nuclear energy, and Americans feel strongly that we need to reduce spending and our national debt.

We can work together on all those items, and the White House meeting is a good opportunity for congressional Democrats to join us in those efforts. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

#### FDA FOOD SAFETY MODERNIZATION ACT

Mr. DURBIN. Mr. President, I know my colleague, Senator HARKIN, will be on the floor momentarily to speak about the Food Safety Modernization Act. I wish to preface my remarks by thanking him personally. TOM HARKIN has been not only a great colleague and friend, he has been such an exceptional leader when it comes to this important issue. It is no surprise for those of us who know TOM HARKIN's congressional and Senate career. He has always been an extraordinary leader.

The Americans with Disabilities Act, which literally has changed the face of America and opened doors for the disabled across our Nation, is not only one of the most dramatic steps forward when it comes to human rights and civil rights in my time, it was led by Senator TOM HARKIN of Iowa and Senator Robert Dole, Republican of Kansas, who then served in the Senate.

So TOM HARKIN has been our conscience and our leader when it comes to issues involving safety, human rights, and expanding the reach of freedom in our Nation to those who otherwise might have been denied.

I will tell you why I am passionate about the food safety issue. It goes back to a note I received as a Congressman. It was almost 16 years ago. It was a note from a woman who did not live in my congressional district. She was from Chicago and I was 200 miles away. Her name was Nancy Donley, and she told the story of her 5- or 6-year-old son Alex. She brought some hamburger home from the local grocery store to fix it for her son. She made his dinner. He ate it, and then he got sick, terribly sick. In a matter of a few hours, he was at the hospital, and in a matter of a few days he had passed away.

He was a victim of E. coli. Trust me, his mom would never have done anything to harm him, and she thought she was doing the right thing to cook his meal and bring it to him at the dinner table. Unfortunately, that family decision, which is made millions of times across America every single day, was a fatal decision.

Nancy Donley—heart broken, her life shattered by the loss of that little boy she loved so much—could have shrunk away in despair and anger over what had happened but did not. She made it her passion and her crusade to gather others like her in behalf of the cause of food safety. She started an organization called Safe Tables Our Priority—or STOP—and started lobbying Members of Congress, even a Congressman 200 miles away, to do what they could to make our laws stronger and better across America.

I have kept in touch with Nancy. It has been over 16 years. We are close friends now. I have to tell you that in my pantheon of heroes, Nancy Donley is right up there for what she has done with her life. If we are fortunate enough today and successful in passing this bill—at least moving it forward

procedurally—I wish to say I am doing that in her name and in the memory of her son Alex and the thousands, tens of thousands, maybe even more, across America who are victims of contaminated food.

For some people, it is just a simple case of indigestion or diarrhea that goes away after a few days. It may be mistaken for the flu. For others, it gets more serious. The number of Americans who die or become severely ill due to preventable foodborne illness is unacceptably high, and it has been that way for a long time.

Every year, 76 million Americans suffer from preventable foodborne illness. Mr. President, 325,000 of our family members, friends, and neighbors are hospitalized each year because of food contamination and 5,000 die—100 a week. That means that every 5 minutes 3 people are rushed to the hospital because the food they ate made them sick, and at the end of the day 13 will die.

Throughout the debate on this bill, I have shared the heartbreaking stories of victims such as Alex Donley and his family. Some of these victims who were courageous enough to share their stories will suffer chronic symptoms that do not go away for a long time, if ever. The victims who have died would have wished they were lucky enough to be alive, even with these long-term illnesses.

Today, as we vote to move to this bill, I will be thinking about how much it means to so many of us. I talked about Nancy Donley and her son Alex. They are not the only ones. There are people all across America who understand, when they go shopping at the food store and buy groceries or buy produce, there is a sort of built-in assumption it is safe. Would our government let things be put on the shelves in a store that have not been inspected, that are not safe?

Most people assume that if the government is doing its job like it is supposed to, they should not have to worry about those things. Well, to a great extent, they are right. We have extraordinary resources in the Federal Government dedicated toward food safety. But the simple fact is, there are wide gaps when it comes to food safety in America, and those gaps need to be closed by this bill.

The vast majority of Americans understand this. According to a recent poll commissioned by Pew, 89 percent of Americans want us to modernize our food safety system. Thanks to the leadership of Senator HARKIN and Senator ENZI, our Republican colleague, our food safety bill passed the Health, Education and Labor Committee unanimously more than a year ago.

This bill has substantial bipartisan support. Twenty Republican and Democratic Senators are already committed to it. It is supported by a broad group of consumer protection interests, including those at the Grocery Manufacturers Association and those at the

Food Marketing Institute and other places that actually market the products and are willing to accept the new legal burdens of this bill in order to give their customers peace of mind in terms of what they are going to buy and consume.

The FDA Food Safety Modernization Act will provide the FDA with the authority it needs to prevent, detect, and respond to food safety problems.

The bill will increase the frequency of inspection at all foreign and domestic food facilities according to the risk they present.

One of the issues we have to be aware of is that a global economy means food is moving across borders more frequently. It is rare that we have the resources in place in some foreign country to make sure what is in that can or in that package is safely prepared. This bill moves us toward this goal. We pick the things that are the most dangerous when it comes to food imports and say they will be the highest priority; we will start the inspection now on food imports coming into the United States. The FDA doesn't currently have the resources or statutory mandate to inspect more frequently, and what they do inspect in terms of imports is very limited. We expand that to the most high-risk, dangerous food products that might come in.

Most facilities are inspected by the Food and Drug Administration, though only once every 10 years. Think about it. The U.S. Department of Agriculture is in place every single day at meat and poultry and production facilities with the inspectors in place to do the job. When it comes to the FDA, an agency with such a broad responsibility—in fact, much broader: 1 inspection every 10 years—if it is your son or daughter, your baby, someone you love, is that enough? I don't think it is. This bill significantly increases the frequency of inspections at all domestic and foreign food production facilities according to the risks they present. The bill gives the Food and Drug Administration long overdue authority to conduct mandatory recalls of contaminated food.

It is hard to believe today, but if we know something is contaminated and has been sent out to the grocery shelves across America, our government has no legal authority to say: Bring it in. The best we can do is advertise the fact that it is dangerous and hope that the manufacturer, the distributor, and the ultimate retailer will get the message and move on it and do the right thing. It is voluntary. It is not mandatory, even if we know that something is dangerous. This bill gives that authority to the Food and Drug Administration. That means that if a company refuses to recall contaminated food, the most expedient action the FDA can take is to issue a press release right away, and we have to get beyond that. We have to give them authority. Many companies do cooperate with the FDA, and I salute them. It is

not only the sensible thing to do; it certainly maintains the representation of them as food producers.

Some, such as the Peanut Corporation of America, which distributed thousands of pounds of peanuts and peanut paste contaminated with salmonella, didn't fully or quickly recall food that made people sick. The Food Safety Modernization Act is going to change that by ensuring the FDA can compel a company to recall food that can cause serious adverse health consequences or death.

Experts agree that individual businesses are in the best position to identify and prevent food safety hazards at their own facilities. The people who run a facility know where the vulnerabilities are on the assembly line and they know which hazards their foods are most susceptible to. That is why our bill requires each business to identify the food safety hazards at each of its locations and then implement a plan that addresses those hazards and keeps the food safe and free of contamination. The bill gives the FDA the authority to review and evaluate these food safety hazard prevention plans and hold companies accountable.

I see the chairman of the committee on the floor and I will end in a moment.

Finally, our bill gives the FDA the authority to prevent contaminated food from other countries from entering the United States. If a foreign facility refuses U.S. food safety inspection, the FDA has the authority to deny entry to their imports. Think about that. This is now going to be put into the law that if you are producing food overseas and you will not allow us to inspect your facility, we can stop exports to the United States. Is there any Member of the Senate, any family, who doesn't think that is a good idea? That is what this bill is all about.

I wish to thank Senator HARKIN for his extraordinary leadership on this bill. I can't tell my colleagues how many times we have come together, Democrats and Republicans, trying to work out differences. We are very close. I think there is one item of disagreement going into it. That is pretty good for Senate work—only one item of disagreement.

I say to my friends: Bring this bill to the floor. Let's vote on that particular item—Senator TESTER's concern—up or down. Let's do it. But let's not go another day without providing the protection families across America expect and deserve when they buy food. Let's do this on behalf of Nancy Donley and moms and dads all across America who ran the risk and, in her case, went through the bitter experience of losing her little 6-year-old boy Alex because of contaminated food. This is something that should be totally non-partisan.

I urge my colleagues: Let's give a strong vote today to move forward on this important bill and help ensure that the food on America's tables is safe.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I intend to defer to Senator HARKIN for I understand 15 minutes. I wish to offer a brief unanimous-consent request that following Senator HARKIN's speech for up to 15 minutes I be recognized for 5 minutes, and that any remaining time on our side be reserved for Senator ENZI, the Senator from Wyoming.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. CORNYN. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I thank the Senator from Texas for yielding.

I wish to thank Senator DURBIN for all the work he has done on food safety for so many years. He has been a leader. He has prompted us and prodded us to get to this point, and we have a good bipartisan bill. I wish to take a few moments to talk about it before the vote that will be coming up in the next hour.

The aim of the Food Safety Modernization Act, as it is called, is very simply to bring our Nation's antiquated and increasingly inadequate inspection service into the 21st century. This bill takes a comprehensive approach to reforming the current system. I am pleased to report that this bill is a product of strong bipartisan collaboration on the Health, Education, Labor and Pensions Committee. Again, I wish to particularly thank Senator DURBIN and Senator GREGG who have worked together over many years to produce this excellent bill. I also wish to thank our ranking member, Senator ENZI, for his leadership in helping to bring this bill to the floor, as well as to my good friend Senator DODD who has been working on this bill also from the beginning and adding his expertise, especially on food allergies. I also thank Senator BURR, who has been personally involved in this entire process.

Senators often speak about the importance of addressing kitchen table issues here in the Senate—the practical, everyday concerns of working Americans and their families. Well, food safety is a kitchen table issue and it couldn't be more urgent or overdue. It is shocking to think that the last comprehensive overhaul of our food safety system was in 1938, more than seven decades ago. Think about how our food system has changed in those 70 years. On the whole, Americans enjoy safe and wholesome food. We know that. But the problem is that “on the whole” is not good enough any longer.

As my colleagues can see from our first chart, they will see that recent foodborne illnesses have been wide in scope and have had a devastating impact on public health. When people get

sick from eating bagged spinach, we have a problem. When kids take their peanut butter sandwiches to school and they get sick from it and go to the hospital, we have a problem. We had 90 deaths and 690 reported cases in 46 States. We have found salmonella in tomatoes, in peppers, and even in cookie dough. When families eat cookie dough and they are getting *E. coli*, we have a problem. Recently, of course, we had the salmonella outbreak in eggs. So it is widespread. It is not just in bagged spinach or eggs, it is in peanut butter, cantaloupes, tomatoes. It is widespread. So we know we have a real problem.

The Centers for Disease Control and Prevention estimate that foodborne illnesses cause an estimated 76 million illnesses a year; 325 Americans every year are hospitalized because of foodborne illnesses; and 5,000 Americans die every year due to a foodborne illness. These are not my figures. These figures are from the Centers for Disease Control and Prevention. According to a Georgetown University study, the cost to our society is about \$152 billion a year in medical expenses, lost productivity, and disability. So the numbers are staggering, not only the number of people who get sick, but the number of people who die and the cost to our society.

I checked in my own State of Iowa, and the cost alone in Iowa—we have over 800,000 cases every year. Each Iowan has to spend about \$1,800 in annual health-related expenses, and about \$1.5 billion in total related costs. My colleagues can look at their States and see the impact. So these are intolerable, but somehow we tolerate them. No longer can we do that. Our current regulatory system is broken. It does not adequately protect Americans from serious widespread foodborne illnesses.

Our meals have grown more complex with more varied ingredients and more diverse methods of preparation and shipping. By the time raw agricultural products find a way to our dinner plates, multiple intermediate steps and processes have taken place. Food ingredients travel thousands of miles or, as Senator DURBIN said, from other countries to factories here and then to our tables. They are intermingled and mixed along the way. Yet, despite all of these changes, our food safety laws have not changed in 70 years.

What we need to do for starters is improve processes to prevent the contamination of foods and methods to provide safe foods to consumers. To achieve this, more testing and better methods of tracking food can be utilized and verified that the processes are working.

Here are some interesting figures. Thirty years ago, we had 70,000 food processors in this country. The FDA made 35,000 visits a year. So we had 70,000 food processors and we made 35,000 visits a year. Today, a full decade into the 21st century, we have 150,000 food processors—over twice as many—

but today FDA inspectors make 6,700 visits each year, one-fifth as many as they did 30 years ago, with twice as many plants. So is it any surprise we are getting more and more foodborne illnesses throughout this country? Referencing what Senator DURBIN said earlier, more and more of our food is coming from other countries. All we are saying in our bill is you have to adopt the same kind of food safety processes and prevention methods that we have in this country to be able to ship your food in. I don't think that is unreasonable, to say that their processes and their safety procedures have to be at least the same as ours or as adequate as ours.

As this chart shows, our bill overhauls our food safety system in four critical ways. First is prevention. We have had some success in our Agriculture Committee in the past on what is called a program of finding out where are the points where contamination can come in and then address those points in a preventive manner. Well, we are now kind of extending that beyond meat and poultry to all food to get the prevention in place. We improve the detection and response to foodborne illness outbreaks with better detection services and better response times. We have a mandatory recall in here that the Department has never had, ever. We enhance the U.S. food defense capabilities, and we increase the FDA resources in order to take care of this.

This bill today will dramatically increase FDA inspections at all food facilities. It will give FDA the following new authorities: It will require all food facilities to have, as I said, preventive plans in place, and the FDA can have access to those plans. So they have to have preventive plans that the FDA gets access to. We have better access to records in case of a food emergency to try to find out what happened. It requires, as Senator DURBIN said, importers to verify the safety of imported food. It strengthens our surveillance systems. It requires the Secretary of the Department of Health and Human Services to establish a pilot project to test and evaluate new methods for rapidly tracking foods in the event of a foodborne illness outbreak. As I said, it gives the FDA the authority to order a mandatory recall of food. A lot of people don't know this: If there is an outbreak of illness because of foodborne diseases, pathogens, FDA does not have the authority to recall that food.

You might say that the companies do that. Well, they do. Most of them see it in their best economic interest to do that. But you might have fly-by-night operators out there that will take the money and run. You might have some foreign-based companies—and I don't mean to pick on them—that are offshore and they may have some food in this country that has caused foodborne illnesses, and they may not want to recall it. We cannot go after them. The FDA doesn't have the authority to re-

call that food. This bill would give them that authority.

This is a bipartisan bill, strongly supported by consumer groups and industry. I have letters from the Grocery Manufacturers Association, U.S. Chamber of Commerce, National Restaurant Association, Pew Charitable Trusts, Consumers Union, Center for Science in the Public Interest, and Trust for America's Health, to name a few. I think it is a rarity when I can say both the Chamber of Commerce and the Center for Science in the Public Interest are on the same page. That is true here.

I have several letters, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 8, 2010.

Senator RICHARD DURBIN,  
U.S. Senate,  
Washington, DC.  
Senator JUDD GREGG,  
U.S. Senate,  
Washington, DC.

DEAR SENATORS DURBIN AND GREGG: Trust for America's Health (TFAH), a nonprofit, nonpartisan public health advocacy organization, would like to express our strong support for immediate Senate passage of the FDA Food Safety Modernization Act (S. 510). Although every American depends on the safety of the food they serve to their families, the Food and Drug Administration (FDA) lacks the tools to ensure that safety. S. 510 would finally help bring the FDA into the 21st century.

Approximately 76 million Americans—one in four—are sickened by foodborne disease each year. Of these, an estimated 325,000 are hospitalized and 5,000 die. A recent study by Ohio State University found that foodborne illnesses cost the U.S. economy an estimated \$152 billion annually. With multiple severe food outbreaks in recent years, it is urgent that the Senate take this step to keep Americans safe.

The FDA Food Safety Modernization Act would place more emphasis on prevention of foodborne illness and give the FDA new authorities to address food safety problems. Under this legislation, food processors would be required to identify potential hazards in their production processes and implement preventive programs to eliminate those hazards. Additionally, the bill would require FDA to inspect all food facilities more frequently and give FDA mandatory recall authority of contaminated food. S. 510 is a bipartisan bill, with widespread support from industry, consumer groups, and public health organizations. The bill passed the Senate HELP Committee with a unanimous voice vote, and food safety legislation passed the House last year with overwhelming bipartisan support.

We thank you for your strong leadership on this legislation. If you have any questions, please do not hesitate to contact TFAH's Government Relations Manager.

Sincerely,

JEFFREY LEVI, PH.D.,  
Executive Director.

SEPTEMBER 8, 2010.

Hon. DICK DURBIN,  
U.S. Senate,  
Washington, DC.  
Hon. JUDD GREGG,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR DURBIN AND SENATOR GREGG: Consumer Federation of America strongly supports passage of the FDA Food Safety Modernization Act (S. 510). CFA is an association of nearly 300 nonprofit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy and education.

Foodborne illness strikes tens of millions of Americans each year, sends hundreds of thousands to the hospital, and kills approximately 5,000 of us. The diseases are more than "just a bellyache." Many victims suffer long-term chronic health problems including reactive arthritis, kidney failure and Guillain-Barré syndrome. Children under the age of 5 are the most frequent victims of foodborne illness. People over age 60 are most likely to die after contracting a food-related illness. The economic costs are enormous. A recent study estimated the annual cost of all foodborne illnesses to be \$152 billion.

The suffering and heartbreak and deaths are pointless. Foodborne diseases are almost entirely preventable. They continue to rage because our nation's primary food safety agency, the U.S. Food and Drug Administration, operates under the constraints of a 70-year-old law that is largely extraneous to current threats to food safety. The Food, Drug, and Cosmetic Act does not give the FDA a specific statutory mandate, appropriate program tools, adequate enforcement authority or sufficient resources to stop foodborne disease before it strikes us and our loved ones.

S. 510 changes the paradigm for fighting foodborne illness, directing the FDA to prevent foodborne illness rather than just reacting to reports of illnesses and deaths. It requires food companies to establish processing controls to avoid food contamination, gives the FDA authority to set food safety standards, and requires the Agency to inspect food processing plants regularly to assure controls are working as intended.

On behalf of CFA's millions of members, we thank you for your strong leadership in developing S. 510 and your determination to ensure its passage. We look forward to continuing to work with you to get a final bill to the President as soon as possible.

Sincerely,

CAROL L. TUCKER-FOREMAN,  
*Distinguished Fellow, Food Policy Institute.*  
CHRIS WALDROP,  
*Director, Food Policy Institute.*

THE PEW CHARITABLE TRUSTS,  
*Washington, DC, September 14, 2010.*

Hon. RICHARD DURBIN,  
U.S. Senate,  
Washington, DC.  
Hon. JUDD GREGG,  
U.S. Senate,  
Washington, DC.

DEAR SENATORS DURBIN AND GREGG: The Pew Charitable Trusts urges the Senate to vote at the soonest possible date on S. 510, the FDA Food Safety Modernization Act of 2009, and encourages you to continue the important support and leadership you each have provided for this crucial legislation over the past year. The HELP Committee unanimously approved a strong, bipartisan bill in November, and a manager's package of amendments was released in mid-August. With the limited time left for legislative action this year, a vote by the full Senate on S. 510 is necessary as soon as possible to en-

sure that a final bill arrives on the President's desk for enactment before this Congress adjourns.

This country has experienced a seemingly endless number of foodborne-illness outbreaks and recalls of contaminated products, demonstrating the clear need for this legislation. S. 510 fundamentally shifts the government's approach in this area to preventing food-safety problems, rather than just reacting to them. The bill requires food companies to develop food-safety plans that identify possible sources of contamination and implement measures to minimize them. This legislation also provides the U.S. Food and Drug Administration (FDA) with much-needed enforcement tools, such as mandatory recall authority and better inspection.

Enactment of FDA food-safety legislation could significantly reduce the burden of foodborne illness in the United States, both for families and businesses. A Pew-funded study estimates the annual health-related costs of foodborne illness at \$152 billion. For this reason, a wide range of stakeholders—consumer advocates, public health organizations, and major industry groups—support this bill. We thank you for your leadership on S. 510 and ask you to continue your efforts to secure its passage.

Sincerely,

SHELLEY A. HEARNE,  
*Managing Director, Pew Health Group.*

CONSUMERS UNION,  
*Yonkers, NY, September 10, 2010.*

Hon. RICHARD J. DURBIN,  
*Hart Senate Office Building,*  
*Washington, DC.*  
Hon. JUDD GREGG,  
*Russell Senate Office Building,*  
*Washington, DC.*

DEAR SENATOR DURBIN AND SENATOR GREGG: Consumers Union, the non-profit publisher of Consumer Reports magazine, writes in support of S. 510, the bipartisan FDA Food Safety Modernization Act. This legislation will finally bring our outdated food safety laws into the 21st century, and will help protect consumers from deadly recalls like last month's recall of half a billion eggs for Salmonella contamination. Consumers expect that the food they eat and serve to their families will not make them sick, or worse. We applaud your leadership on this vital consumer protection legislation, and hope that S. 510 comes to the floor of the Senate for a vote in September.

S. 510 will protect consumers by:

Requiring the Food and Drug Administration (FDA) to inspect food processing plants on a regular basis;

Giving FDA the power to order recalls of contaminated food; right now, the agency can only request that the food be recalled and hope that companies respond in the public interest;

Requiring food producers to identify where food can become unsafe, and requiring them to take steps to prevent contamination by Salmonella, E. coli, Listeria, and other pathogens;

Improving methods of tracing contaminated food back to its source, so that consumers can act in a timely and knowledgeable fashion to protect their families from unsafe food; and

Requiring imported food to meet the same safety standards as food produced in the U.S.

S. 510 also takes steps to address the concerns raised by small food producers that they be regulated in a scale-appropriate manner.

We also urge you to support Senator Feinstein's proposed amendment to ban Bisphenol-A (BPA), an endocrine disruptor, from baby bottles, sippy cups, baby food, and infant formula. BPA has been linked to a

wide range of health problems. Numerous studies have shown BPA effects on the brain, prostate, hormonal and reproductive systems, and it has been linked to an increased risk of insulin resistance and even cancer.

The health impact is even more pronounced on babies and children. Seven states and several cities have already taken action to ban BPA from food and beverage containers used by children and babies, as have three nations, including Canada. In addition, packaging and containers already exist on the market today without this chemical. We urge you to support the Feinstein amendment, and to provide all American children with BPA-free food and drink.

Again, we thank you for your strong leadership on this vital public health legislation. We look forward to working with you to send a final bill to the President's desk for signature this fall.

Sincerely,

JEAN HALLORAN,  
*Director, Food Policy Initiatives.*  
AMI V. GADHIA,  
*Policy Counsel.*

SEPTEMBER 15, 2010.

SENATOR HARRY REID,  
*Office of the Senate Majority Leader, Capitol Building, Washington, DC.*

SENATOR MITCH MCCONNELL,  
*Office of the Senate Minority Leader, Capitol Building, Washington, DC.*

DEAR MAJORITY LEADER REID & MINORITY LEADER MCCONNELL: Our organizations are writing to urge you to schedule a vote on S. 510, the FDA Food Safety Modernization Act of 2009, at the soonest possible date. The HELP Committee approved a strong, bipartisan bill in November, and we believe that a vote would keep the momentum going for enactment of landmark food-safety legislation.

Strong food-safety legislation will reduce the risk of contamination and thereby better protect public health and safety, raise the bar for the food industry, and deter bad actors. S. 510 will provide the U.S. Food and Drug Administration (FDA) with the resources and authorities the agency needs to help make prevention the focus of our food safety strategies. Among other things, this legislation requires food companies to develop a food safety plan; it improves the safety of imported food and food ingredients; and it adopts a risk-based approach to inspection.

Our organizations—representing the food industry, consumers, and the public-health community—urge you to bring S. 510 to the floor, and we will continue to work with Congress for the enactment of food safety legislation that better protects consumers, restores their confidence in the safety of the food they eat, and addresses the challenges posed by our global food supply.

Sincerely,

American Beverage Association, American Frozen Food Institute, Center for Foodborne Illness Research & Education, Center for Science in the Public Interest, Consumer Federation of America, Consumers Union, Food Marketing Institute, Grocery Manufacturers Association, International Bottled Water Association, International Dairy Foods Association, National Association of Manufacturers, National Coffee Association of U.S.A., Inc., National Confectioners Association, National Consumers League, National Restaurant Association, The PEW Charitable Trusts, Trust for America's Health, Snack Food Association, S.T.O.P. Safe Tables Our Priority, U.S. Chamber of Commerce, U.S. Public Interest Research Group.

DEPARTMENT OF HEALTH AND  
HUMAN SERVICES,  
Washington, DC, September 10, 2010.

DEAR MEMBER OF CONGRESS, The events of the past two weeks have illustrated a pattern that is all too familiar. Local health officials around the country begin to see an uptick in illnesses from a particular source. As they notify the Centers for Disease Control and Prevention, epidemiologists begin to see a pattern in the illness and outbreak reports, identify a food as the likely cause, and notify the Food and Drug Administration (FDA). FDA, state health and local officials then deploy investigators across the country, furiously searching for the source of the illness, knowing that every day more people are getting sick, some seriously. In the meantime, the public must be warned to avoid the food of concern, creating anxiety for consumers and economic losses for farmers, food processors and retailers.

This time we're seeing this pattern play out with *Salmonella Enteritidis* in eggs, with illnesses in 22 states and more than half a billion eggs being recalled. But in recent years it has been spinach, salsa, peanut butter, bean sprouts, cookie dough, green onions—the list goes on and on, covering many of our most common foods. Many people are left wondering: heading into the second decade of the 21st century, why can't we prevent and react more effectively to the threat from foodborne illness?

Sadly, the answer is simple. As President Obama said during last year's peanut butter outbreak, caused by a different form of *Salmonella*, we have a food safety regulatory system designed early in the 20th century, one that must be overhauled, modernized and strengthened for today.

Under the current system, FDA is often forced to chase food contaminations after they have occurred, rather than protecting the public from them in the first place. Difficulties in tracking the movement of food from its origin to its eventual sale to the public (often far across the country) can frustrate efforts to identify contaminated food. The biggest surprise to most people: FDA cannot order a recall of contaminated food once it is found in the marketplace. Although government has a crucial role in ensuring the safety of our food supply, strong regulation has been missing. An overhaul of our antiquated food safety system is long overdue.

Proposed food safety legislation would give FDA better ways to more quickly trace back contaminated products to the source, the ability to check firms' safety records before problems occur, clear authority to require firms to identify and resolve food safety hazards, and resources to find additional inspections and other oversight activities. Pending legislation would also give the agency mandatory recall authority, and other strong enforcement tools, like new civil penalties and increased criminal penalties for companies that fail to comply with safety requirements. In a world where more and more food is imported, the legislation also would strengthen FDA's ability to ensure the safety of imported food.

The good news is that a bipartisan majority in the House of Representatives passed major food safety legislation last year that would move the United States from a reactive food safety system to one focused on preventing illness. Likewise in the Senate, a bipartisan coalition has developed a strong food safety bill that is ready for the Senate floor. This legislation has the support of a remarkably broad coalition of public health, consumer and food industry groups. We commend both chambers for their hard work.

Now it's time to finish the job. We encourage Senators to support a critical and com-

monsense piece of public health legislation. And, we urge the House and Senate to quickly deliver a modern food safety bill to the President's desk. It's time to break the pattern of foodborne illnesses and economic loss. It's time to give FDA the modern tools and resources it needs to meet the challenges of the 21st century.

KATHLEEN SEBELIUS,  
*Secretary, Department of Health and Human Services.*

MARGARET A. HAMBURG, M.D.,  
*Commissioner of Food and Drugs.*

Mr. HARKIN. Mr. President, I have said many times that to say that food safety in this country is a patchwork is giving it too much credit. Food safety has too often become a hit-or-miss gamble, with parents obliged to kind of roll the dice when it comes to the safety of their kids' food. It is frightening and unacceptable. It is past time to modernize our food safety laws and regulations—70 years past time. We need to give FDA the resources and authority it needs to cope with a growing problem that threatens today a more abundant and diverse food supply. We need to act now.

I urge my colleagues to join the bipartisan sponsors to pass this important legislation and vote for cloture this afternoon on the motion to proceed. Hopefully, we can get on the bill and pass it as soon as possible, so that the families of America will have more assurance that the food they eat, no matter what the source, or from where it comes, has more safety procedures attached to it, and so that we have a new process for prevention in place for all facilities in this country and in foreign countries, and so we can raise the bar and say to our families that you can have more assurance in the future that the food you buy, whether it is the fresh fruits you buy in the middle of winter, shipped from Chile, Argentina, or Mexico, or Guatemala, or the fresh fruits you get in the summertime from California, Washington State, and Canada, or the produce, the lettuce, the bagged spinach, or whatever it might be, will be more safe for you and your family. That is what this is all about—protecting our families and making sure our food safety laws are adequate for the 21st century and not the 18th century.

I yield the floor.

#### THE FDA FOOD SAFETY MODERNIZATION ACT

Mr. ENZI. Mr. President, the United States has one of the best food safety systems in the world. However, even the best of systems have room for improvement. That is why my colleagues and I worked together over the past year to produce a bill that has broad bipartisan support. Food safety is not a partisan issue. We all want the safest food supply possible and the Food Safety Modernization Act makes significant improvements in that direction.

This is not a perfect bill. If it were solely up to me, there are several provisions that I would have done dif-

ferently. However, this bill provides real improvements for our food system by placing a greater emphasis on prevention and targeting government involvement to the areas of greatest need.

The American food industry is made up of hundreds of thousands of processors, distributors, and retailers of all sizes, both foreign and domestic. When you say "food industry" many think of the Nations largest food processors that carry the brand names with which we are familiar.

In truth, "industry" also consists of tens of thousands of small businesses across the country. It also includes over 2 million farmers, both large and small, in the United States that provide the food that we consume at our tables. This bill recognizes the diversity of all these individuals and organizations and protects their ability to continue to grow safe food for our families.

The bill also recognizes the vital role played by State and local officials. Our State officials are on the front lines when it comes to responding to food safety concerns and this bill makes sure that they will have the resources they need to do their jobs. Specifically, the bill provides training and education of State, local, and tribal authorities to facilitate the implementation of new standards under the law.

My colleagues, including Senators HARKIN, GREGG, DURBIN, BURR and DODD, have recognized all these challenges in this process and have worked together to prepare a bill that makes improvements to all aspects of our food system.

I am particularly pleased with the efforts the group has made in the managers' package that focus on providing flexibility for small and very small food processors. This bill provides small processors additional time to comply with new food safety practices and guidelines. The bill also requires the FDA to publish user-friendly small entity compliance guides to assist firms with the implementation of new practices. This way, small businesses in the food system, know exactly how to plan to adopt any new practices that could apply to them.

This bill also protects farms. Farmers remain exempt from registration under the Bioterrorism Act and any new produce safety standards must consider the unique practices that farmers use to grow or market their food. This includes consideration for farmers that use specific conservation practices or grow organic foods under the Organic Foods Production Act.

Small entities that produce food for their own consumption or market directly to consumers are also not subject to registration under this bill. This ensures that individuals can continue to provide food to their communities through farmers markets, bake